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C O N F I D E N T I A L SECTION 01 OF 02 BOGOTA 008410

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SUBJECT: DRAFT EU REPORT RECOMMENDS SUPPORT FOR THE J&P LAW

Classified By: Ambassador William B. Wood for reasons 1.4 (b) and (d)

SUMMARY

1. (C) A draft EU Bogota Heads of Mission report prepared for the Committee of the Council for Latin America (COLAT) meeting in early September recommended that the EU support the GOC in its implementation of the Justice and Peace law. The draft report recommends specific areas of cooperation, and notes that only France is uncomfortable with its conclusions. Embassy would be interested in readout of September 6 COLAT meeting on Colombia. End Summary.

2. (C) Post received an advance copy of a report the COLAT requested the European Union Heads of Missions (HOMs) in Bogota to produce on recommendations for European Union (EU) policy on the Justice and Peace law (copy e-mailed to WHA/AND). COLAT's request followed the Council's December 2004 conclusions which suggested more formal EU involvement once the Colombian government had set out a comprehensive legal framework and a comprehensive strategy concerning concentration, disarmament, demobilization and reintegration of the members of the illegal armed groups into society. The HOMs' report consolidates information on the Justice and Peace (J&P) law, including its provisions, GOC views, reactions and criticisms, and then makes recommendations for the EU's position with respect to the law.

3. (C) HOMs share many of the concerns expressed by the law's critics, notably on issues such as the capacity of the legal system to cope with the demands placed on it; the need for effective dismantling of paramilitary structures; the need for proper attention to victims' rights; and the need to deal effectively with any who might return to crime and to exclude drug traffickers and their organizations from legal benefits. HOMs explain, however, that it is not reasonable to expect the GOC to make changes after such a long and thorough democratic process. They consider that the EU's attention should therefore focus on attempting to make sure that the law has a positive impact, without the EU assuming functions regarding implementation which should remain the responsibility of the Colombian government.

4. (C) HOMs argue, however, that to reject the law outright would go against the long-standing EU policy of advocating a negotiated solution to the conflict, and they would run the risk of being criticized for having stood aside should the process go wrong. EU verification, on the other hand, could have a strong impact both practically and politically, helping manage some of the risks. Nevertheless, should the GOC fail to abide by the conditions set down in the law, the reports says the EU should be ready to withdraw its support with immediate effect, while maintaining support for state institutions, local civil society and international organizations.

5. (C) HOMs suggest the following areas of possible EU-GOC cooperation:

-- Support for an effective verification/monitoring presence, led by a multi-disciplinary group (possibly working in conjunction with MAPP/OAS), including UN agencies and European experts; the results of the process should be published.

-- Support for a mission from the Inter-American Commission on Human Rights, which would produce an interim evaluation of the process during the first half of 2006.

-- Consider support for the involvement of the UNHCHR office in Colombia to monitor the law's implementation and offer technical assistance to the Colombian government and civil society in the light of its findings.

-- Support to the Ombudsman's office (Defensoria del Pueblo) and to the Office of the Procurator General (Procuraderia) to provide legal advice to and support for victims, groups wishing to initiate cases under the provisions of the law.

-- Support for the office of the Attorney General (Fiscalia) and to the office of forensic medicine to enhance their capacity to carry out investigations related to the implementation of the law.

-- Technical assistance to facilitate the effective

implementation of the law: for example, in the organization of evidence collected to ensure proper cross-referencing, and to allow public access to the information as required by the law.

-- Assist reinsertion programs, on condition that those benefiting had completely ceased all illegal activities.

-- Support the reinsertion and demobilization of child soldiers to complement existing programs developed by UNICEF, the IOM and local and international NGOs.

16. (C) The report suggests the following for possible areas of co-operation with civil society and victims:

-- Support for local reconciliation activities in areas where demobilization is taking place, using EU member states' experience in, for example, Northern Ireland. OAS/Netherlands projects in community justice could provide a model for such support.

-- Support for victims' groups, either directly, or through technical assistance to the regional restorative justice committees set up under the law.

-- Help for communities affected by the conflict, including those receiving demobilized combatants. This might include psychological support to individuals or organizations.

17. (C) HOMs conclude that COLAT should consider a new set of Council conclusions which would incorporate a shortened form of these recommendations, while pointing to the aspects of the law about which they are most concerned (dismantling of paramilitary structures illegal activities, capacity of the legal system to deliver, victims' rights and the on-going drugs problem). The conclusions should also reiterate the EU's call on the other illegal armed groups to enter into negotiations with the government in order to find a peaceful solution to the conflict, to desist from drug trafficking, to stop immediately all kidnapping and to release all hostages.

18. (C) The report states that the French delegation voiced reservations about the report's conclusions, stating that it was too soon for the EU to take decisions on involvement in the process. The French also expressed doubts about some of the law's provisions and its ability to deliver positive results. (We understand that, although the French did not support the effort, they also did not block it, a step forward.)

19. (C) Embassy would be interested in readout from September 6 COLAT meeting on the draft report.

WOOD